IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.3544 OF 2006

Vetal Bambarde Vibhag Shikshan
Prasarak Mandal & Anr. .. Petitioners

Vs.

State of Maharashtra & Ors. .. Respondents

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Shri Jaydev Trivedi i/b M/s.M.P.Vashi & Associates for the petitioners.

Shri Pradip Patil, AGP for the Respondents.

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CORAM : R.M.S.KHANDEPARKAR &

V.M.KANADE, JJ

DATED : 26TH SEPTEMBER, 2006

P.C.

1. Heard. The petitioners challenge the order dated 18th October, 2005 passed by the respondents rejecting the request of the petitioners for grant-in-aid in relation to the Higher Secondary Classes of Standards XI and XII in Science Stream. The contention on behalf of the petitioners is that by order dated 18th July, 2005 passed in the Writ Petition No.2375 of 2005, the Division Bench of this Court had directed the respondents to take appropriate decision on the representation made by the petitioners

for such grant. However, instead of deciding the matter on merits, the request of the petitioners for grant-in-aid has been rejected by the respondents solely on the ground that the petitioners had earlier given the undertaking and assurances that they would not make any demand for such grant. According to the petitioners, there is no justification for refusal of such grant as there is already a grant being made available in relation to the Arts stream. On the other hand, it is the case of the respondents that it is a matter of policy in terms of which from the cut off date, no grant-in-aid is provided to any new school or college or a new class which are started after the said cut off date. That policy is being followed in respect of all the schools and classes, and since the classes for standards XI and XII for Science Stream by the petitioners were started after the cut off date, the petitioners are not entitled for any such grant-in-aid for such classes.

2. The decision, sought to be impugned, having been taken by the respondents in consonance with the said policy and the same is not being disputed by the petitioners, we do not find any justification for interference in the impugned order in writ jurisdiction.

3. Apart from the policy decision, undisputedly, the petitioners themselves had given undertaking not to claim any such grant-in-aid for the classes of standards XI and XII (Science Stream). Nothing is brought to our notice to show that the petitioners had infact disclosed any change in the circumstances which could warrant release of such grant-in-aid to the petitioners' classes. Of course, we are making these observations without prejudice to the respondents' right to deny such grant-in-aid based on their policy.

4. The learned advocate for the petitioners has drawn our attention to the decision of the Apex Court in **State of Maharashtra v. Manubhai Pragaji Vashi & Ors.,** reported in AIR 1996 SC 1, while contending that making the grant available to the Arts stream and not to the Science stream shows discrimination, and therefore, the same is not tenable. The contention is devoid of substance. The Apex Court in **Manubhai's case (supra)** was dealing with the matter where the State had failed to explain as to why the recognised private law colleges alone were disentitled to receive grant-in-aid from the Government when the same was being made available to the other faculties. That is not the case in the matter in hand. The Government

has taken a decision not to give any grant-in-aid to any school which has commenced after the cut off date, and therefore, the grant-in-aid has been demanded to the XIth and XIIth standards in Science Stream of the petitioners as those classes were admittedly started after the said cut off date. Being so, the decision in **Manubhai's case (supra)** has no application to the matter in hand.

5. For the reasons stated above, there is no case made out for interference in the impugned order in writ jurisdiction. The petition is, therefore, rejected.

(R.M.S.KHANDEPARKAR, J)

(V.M.KANADE, J)